

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:13CR128
	§	
MARTHA ANN TALLEY	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant’s supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on May 17, 2016 to determine whether Defendant violated her supervised release. Defendant was represented by William Rowlett. The Government was represented by Andrew Stover.

On April 15, 2014, Defendant was sentenced by the Honorable Thad Heartfield, United States District Judge, to a sentence of 27 months imprisonment for violation of 18 U.S.C. § 1029, conspiracy to commit access device fraud, followed by a 3-year term of supervised release. Defendant began her term of supervision on October 23, 2015.

On April 7, 2016, the U.S. Probation Officer filed a First Amended Petition for Warrant or Summons for Offender under Supervision (the “Petition”) (Dkt. 74). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; and (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any

paraphernalia related to any controlled substances, except as prescribed by a physician.

The Petition alleges that Defendant committed the following violations: (1) on January 11 and 13, 2016, Defendant submitted urine specimens which tested positive for methamphetamine, on January 14, 2016, she admitted verbally and in writing to Senior U.S. Probation Officer Linda Werner she used said substance, and an Alere Toxicology Interpretation Report indicates there was no new use between said specimens; (2) on February 19, 22, and 24, 2016, Defendant submitted urine specimens which tested positive for methamphetamine, on February 24, 2016, Defendant admitted verbally and in writing to Senior U.S. Probation Officer Linda Werner that she used said substance on or about February 5 or 6, 2016, and the Alere Toxicology Interpretation Report indicates there was new drug usage between each of these specimens; and (3) on March 23, 2016, Defendant submitted a urine specimen which tested positive for methamphetamine which was confirmed by Alere Laboratory.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant called Michael Collins and Arnetta Mae Talley to testify about the potential of Defendant attending in-patient drug treatment. Defendant also offered a letter from her employer regarding her abilities and value as an employee.

Defendant waived her right to allocute before the district judge and her right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of her supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments and testimony presented at the May 17, 2016 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-two months (22) months, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Carswell Bureau of Prison facility, if appropriate.

SIGNED this 3rd day of June, 2016.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE